

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

INTERNATIONAL UNION, UNITED
AUTOMOBILE AEROSPACE AND
AGRICULTURAL WORKERS OF
AMERICA, UAW, and its LOCAL 1402,

and

Case Nos. 1:11-cv-28 and
1:12-cv-324

RONALD CLAPP, ROBERT RIETVELD,
ANN SKILES, JOHN CHESTER, and
PHILIP SULLVAN as individuals, on behalf of
themselves and all persons similarly situated,

Hon. Robert J. Jonker

Plaintiffs,

v.

HYDRO AUTOMOTIVE STRUCTURES
NORTH AMERICA, INC., HYDRO
ALUMINUM ADRIAN, INC., and
HYDRO AUTOMOTOIVE STRUCTURES
NORTH AMERICA, INC. WELFARE BENEFIT
PLAN FOR UNION EMPLOYEES.

Defendants.

**JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AGREEMENT AND PROPOSED CLASS NOTICE**

In January 2011 Plaintiffs Ronald Clapp, Ann Skiles, John Chester, Robert Rietveld, Charles Willis, Dale Lampen, and George Kleis (collectively “Class Representatives”) and the International Union, United Automobile Aerospace and Agricultural of America and its Local 1402 (collectively “UAW”), brought *Hydro I* (Case No. 11-cv-28) against Defendants Hydro Automotive Structures North America, Inc.; Hydro Aluminum Adrian, Inc., and Hydro Automotive Structures North America, Inc. Welfare Benefit Plan for Union Employees (“Hydro”), challenging Hydro’s termination of retiree insurance benefits provided to the UAW bargaining unit employees who retired from Hydro’s Holland, Michigan facility on or after November 8, 1990.

During the course of litigating *Hydro I*, plaintiffs discovered evidence which they believed showed that Hydro was overcharging retirees for their health insurance by requiring them to pay 50% of the cost of prescription drug coverage. Hydro denied that retirees were entitled to free prescription drug coverage. As a result, in April 2012 plaintiffs filed *Hydro II* (Case No. 12-cv-324).

At various times during *Hydro I* and *Hydro II*, plaintiffs threatened to file a third class action lawsuit against Hydro – “*Hydro III*” – regarding the status of retiree health insurance benefits for UAW bargaining unit employees who retired from Hydro’s Holland facility prior to November 8, 1990. Plaintiffs claimed that such persons have vested, lifetime retiree health insurance benefits. Hydro denied this claim but did not eliminate, or threaten to eliminate, retiree health insurance benefits for pre-November 8, 1990 retirees, and plaintiffs did not file *Hydro III*.

The parties have entered into a Settlement Agreement resolving, subject to Court approval, all claims among the parties as detailed in the Settlement Agreement, including the claims of the Classes in *Hydro I* and *Hydro II* and the threatened claims in *Hydro III*.

In order to effectuate the proposed settlement, the parties hereby move for (i) preliminary approval of the Settlement Agreement; (ii) approval of the proposed class notice and the parties' proposed procedure for distributing the class notice; and (iii) entry of an order setting a date for a hearing on the fairness, reasonableness, and adequacy of the Settlement Agreement pursuant to Fed. R. Civ. P. 23(e)(2).

In support of their motion, the parties submit the accompanying brief and exhibits.

Dated: June 3, 2014

By: /s/ Michael L. Fayette
Michael L. Fayette
PINSKY, SMITH, FAYETTE & KENNEDY, LLP
146 Monroe Center Street, NW
Suite 805
Grand Rapids, MI 49503
(616) 451-8496
MLFayette@sbcglobal.net

Attorney for Plaintiffs

Date: June 3, 2014

By: /s/ Anthony R. Comden
Anthony R. Comden (P44958)
MILLER JOHNSON
250 Monroe Avenue, NW, Suite 800
Grand Rapids, MI 49503
(616) 831-1700

Christopher Lee Slaughter
Steptoe & Johnson PLLC (WV)
1000 Fifth Ave., Ste. 250
Huntington, WV 25701
(304) 526-8140

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2014 the foregoing document was filed electronically with the Clerk of Court using the ECF system which will send notification of such filing to attorneys of record.

Date: June 3, 2014

By: /s/ *Anthony R. Comden*

Anthony R. Comden (P44958)

MILLER JOHNSON

250 Monroe Avenue, NW, Suite 800

Grand Rapids, MI 49503

(616) 831-1700